

DEPARTMENT OF FISH AND GAME
NOTICE OF PROPOSED RULEMAKING

Notice is hereby given that the Department of Fish and Game (DFG) proposes to amend Section 187, Title 14, California Code of Regulations (CCR). This section pertains to the Weight in the Round Conversion Factor for Tanner Crab.

PUBLIC HEARING

Pursuant to Government Code Section 11346.8(a), no public hearing has been scheduled on the proposed action. However, a hearing will be held if the DFG receives a written request for a public hearing from any interested person, or his or her duly authorized representative, no later than 15 days prior to the close of the written comment period. If a hearing is requested, it will be held in Sacramento, California.

SUBMISSION OF WRITTEN PUBLIC COMMENTS

Any interested person, or his or her duly authorized representative, may submit written comments relevant to the proposed regulatory action to the DFG. All written comments must be received by the DFG at this office no later than 5:00 p.m. on January 23, 2006, in order to be considered. All written comments must include the true name and mailing address of the commenter.

Written comments may be submitted by mail, fax, or e-mail, as follows:

Department of Fish and Game
Marine Region Regulatory Unit
P.O. Box 944209
Sacramento, CA 94244-2090
Attention: Scott Barrow
Fax: (916) 651-7672
e-mail: sbarrow@dfg.ca.gov

PERMANENT ADOPTION OF REGULATION

The DFG may adopt the proposal as described in this Notice, or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of modified proposals – with changes clearly indicated – will be available for 15 days prior to its adoption from the person designated in this Notice as contact person. The text will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Fish and Game Code Section 8042 grants the DFG authority to adopt regulations to determine the conversion factor for landing tax adjustment for delivery of processed fish. These regulations implement, interpret, and make specific Fish and Game Code sections 8042 and 8051.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Fish and Game Code sections 8040, 8041, and 8042 specify the requirements by which commercial fish buyers or fishermen shall pay landing tax to the Department for the sale of fish. Section 8042 further provides that if the tax is imposed based upon weight in the round, and the fish is cleaned, gutted, beheaded or otherwise not in the round at the time of delivery, the taxes shall be adjusted by a conversion factor as determined by the Department by regulation.

The Department proposes to amend Section 187, Title 14, CCR, to include a conversion factor for Tanner crab (*Chionecetes* spp.), of 161 percent of the weight landed. The proposed amendment is needed for consistency with proposed commercial Tanner crab fishing regulations currently under consideration by the Fish and Game Commission (OAL Notice file #Z-050-1006-02) that would authorize the commercial harvest of Tanner crab in a processed form.

The 161 percent conversion factor was derived from *Recoveries and Yields from Pacific Fish and Shellfish*, Alaska Sea Grant Marine Advisory Bulletin 37, 1994. The conversion factor was also confirmed in 2005 by personal communication with Alaska Department of Fish and Game personnel involved in Alaskan Tanner crab fisheries.

IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person

or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Other Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None
- (g) Costs Imposed to Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the DFG must determine that no reasonable alternatives considered by the DFG or that has otherwise been identified and brought to the attention of the DFG would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons that the proposed action.

AVAILABILITY OF DOCUMENTS AND DFG CONTACT PERSON

The DFG has prepared an Initial Statement of Reasons (ISOR) for the proposed regulatory action and has available all the information upon which the proposal is based. Copies of the regulations as proposed in strikeout-underline format, the ISOR, the Final Statement (when available), and all information upon which the proposal is based (rulemaking file) may be obtained upon request from the:

Department of Fish and Game
Marine Region Regulatory Unit
P.O. Box 944209
Sacramento, CA 94244-2090

Questions regarding the proposed regulation, requests for documents, or any questions concerning the substance of this regulatory action may be directed to Scott Barrow (916) 651-7670. Notice of the proposed action shall be posted on the Department of Fish and Game Marine Region website at <http://www.dfg.ca.gov/mrd/index.html>.